

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-183-C - ORDER NO. 98-753  
OCTOBER 1, 1998

IN RE: Application of NXLD Company for a ) ORDER /MR  
Certificate of Public Convenience and ) APPROVING  
Necessity to Provide Intrastate Interexchange ) CERTIFICATE  
Telecommunications Services within the State )  
of South Carolina. )

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of NXLD Company ("NXLD or the Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of intrastate interexchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1997) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed NXLD to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of the NXLD Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. NXLD complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was commenced on September 22, 1998 at 11:00 A.M., in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. Faye A. Flowers, Esquire, represented the Company. F. David Butler, General Counsel, represented the Commission Staff.

Laura L. Holloway, Assistant Secretary for NXLD, testified on behalf of the Company's Application. The record reveals that NXLD is a corporation organized under the laws of the State of Delaware, and is authorized to transact business in South Carolina as a foreign corporation by the South Carolina Secretary of State. According to Holloway, NXLD proposes to offer long distance services using resold transmission services of underlying carriers which are duly certified by the Commission. Holloway explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a reseller. The record reveals the Company's services, operations and marketing procedures.

Holloway also explained that NXLD possesses the technical, financial and managerial abilities to provide its services in South Carolina. Holloway testified that the Company would operate in accordance with the Commission rules, regulations, guidelines, and Commission Orders. Finally, Holloway offered that approval of the NXLD application is in the public interest as NXLD's services will give South Carolina customers a wider selection of high quality services from which to select.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. NXLD Company is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. NXLD will operate as a non-facilities based reseller of interexchange services in South Carolina and wishes to provide its services in South Carolina.

3. NXLD has the experience, capability, and financial resources to provide the services as described in its Application.

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to NXLD to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for NXLD for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. NXLD shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. NXLD shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1996).

4. If it has not already done so by the date of issuance of this Order, NXLD shall file its revised maximum tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. NXLD is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier if the end-user so desires.

7. NXLD shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If NXLD changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, NXLD shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

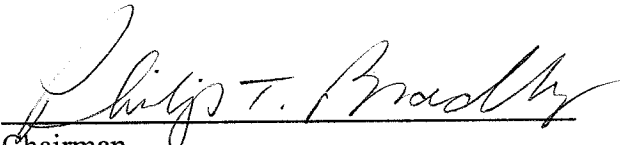
9. NXLD shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

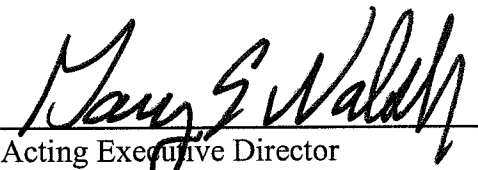
NXLD shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Acting Executive Director

(SEAL)

## ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS FOR INTEREXCHANGE COMPANIES AND AOS'S

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COMPANY NAME

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FEI NO.

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ADDRESS

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CITY, STATE, ZIP CODE

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PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS\* FOR  
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- \* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,  
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN  
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF  
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE\* AT DECEMBER 31 OR FISCAL YEAR ENDING  
\_\_\_\_\_.
- \* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION  
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND  
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT  
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS  
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3  
ABOVE).

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SIGNATURE

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NAME (PLEASE TYPE OF PRINT)

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TITLE

DOCKET NO. 98-183-C - ORDER NO. 98-753  
OCTOBER 1, 1998  
ATTACHMENT B

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**INFORMATION OF THE AUTHORIZED UTILITY  
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL  
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission  
the name, title, address, and telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

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Company Name/DBA Name

---

Business Address

---

City, State, Zip Code

---

Authorized Utility Representative (Please Print or Type)

---

Telephone Number

Fax Number

---

E-Mail Address

---

This form was completed by      Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230